

Delegate Hargrove.

DELEGATE HARGROVE: Mr. Chairman, I think the intention of Delegate Grant and also Delegate Claggett might be a worthwhile one. However, I think the amendment is an extremely dangerous one. We have set out in this Convention certainly to strengthen the courts. We have given power to the judges to administer justice.

I think here we are attempting to permit the judges to delegate those powers to officers whose training certainly we do not take to be the same as a district court judge. I could visualize as Delegate Claggett suggests that a district court, if overburdened with work, would appoint a commissioner to hear traffic court cases. This is not the function of a commissioner. It was never intended to be the function of a commissioner. The Committee intended very definitely to restrict the commissioner's power. His power is such that he can arrest, put in jail, or release a person for the commission of a crime. Should a person of this stature be given additional authority, I would suggest that it should take a constitutional amendment to do so and let the people make the determination.

I, therefore, would suggest that we defeat this amendment.

THE CHAIRMAN: The Chair recognizes Delegate Scanlan to speak in favor of the amendment.

DELEGATE SCANLAN: I think Mr. Claggett said it all. I would just like to reiterate what he said and point out that contrary to what Mr. Mudd indicated, you are not putting guidelines in the Constitution here, you are putting express limitations. I think that the delegate's proposal has the advantage that when time and experience indicate the commissioners can be entrusted with other duties in addition to the ones the Committee has in mind, they should be given that power if, in the judgment of the court, they are ready for it without the necessity of amending the constitution every time one wanted to give a particular set of commissioners in a particular area greater duties than they heretofore had.

THE CHAIRMAN: The Chair recognizes Delegate Bothe to speak in opposition.

DELEGATE BOTHE: Mr. Chairman, I would suggest that we should not look to the addition of the other powers in this part-time office which may not even be filled by members of the bar, but that we

will be looking in the long run to the abolition of the office when the amount of judicial business in the more sparsely populated areas of the State increases to the extent that full-time district court judges will be available in every community.

I think that it is a dangerous matter to place even the powers that have been put by this section in the hands of people who may be of no higher quality than the committing magistrates whom we all have heard much about today.

I am rather surprised, for instance, at the arguments of my good friend Delegate Claggett that it might be perfectly all right to allow a nonjudicial individual power of this sort: to let the judge sleep, let the policeman wake up one of these fellows, and let him ransack some fellow's home on a search warrant which he may not comprehend. I would point out in many search and seizure cases it has not only been required that a judge sign the warrant, but in many instances that a judge of a higher court perform this function.

That is how precious the right to be free from search and seizure is. I suggest we leave the language as it stands and hope that it is not abused. I am not so sure that it will not be.

THE CHAIRMAN: Does any delegate desire to speak in favor?

Delegate Carson.

DELEGATE CARSON: Mr. Chairman, the present section 5.11 will permit the commissioners to exercise the power of issuing warrants of arrest as prescribed by rule. It seems to me that if a commissioner may issue a warrant of arrest that he certainly then may also issue possibly a warrant for search or for seizure.

When your liberty is taken away, you cannot have anything else taken away but your life, but search is a lesser invasion of privacy. I think Mr. Grant's amendment is meritorious. I do not know if it should be or should not be. These commissioners should be given more power than specified here. But I suggest the courts to whom we entrust the whole area of this now certainly will advisedly make that decision, and I urge you to vote in favor of the amendment.

THE CHAIRMAN: Does any other delegate desire to speak on this situation.

Delegate Dukes.

DELEGATE DUKES: Mr. President, as I understand the thrust of the amendment,